

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (CLEVELAND)**

RAY GILE, derivatively on behalf of
VIEWRAY, INC.,

Plaintiff,

vs.

SCOTT W. DRAKE, CALEY
CASTELEIN, JAMES F. DEMPSEY,
SCOTT HUENNEKENS, D. KEITH
GROSSMAN, DANIEL MOORE, BRIAN
K. ROBERTS, GAIL WILENSKY, KEVIN
XIE, ADITYA PURI, HENRY A.
MCKINNELL, JR., AJAY BANSAL,
CHRIS A. RAANES, SHAHRIAR MATIN,
DAVID BONITA, BRIAN KNALEY,
AND THEODORE T. WANG,

Defendants,

and

VIEWRAY, INC., a Delaware Corporation,

Nominal Defendant.

Case No. 1:20-cv-01615

**PROPOSED STIPULATION DEFERRING
LITIGATION**

WHEREAS, on July 22, 2020, plaintiff Ray Gile (the “Plaintiff”) filed a shareholder derivative action on behalf of nominal defendant ViewRay, Inc. (“ViewRay” or the “Company”) in this Court alleging violations of Section 14(a) of the Securities Exchange Act of 1934 (the “Exchange Act”), breaches of fiduciary duty, unjust enrichment, and waste of corporate assets against defendants Scott W. Drake, Caley Castelein, James F. Dempsey, Scott Huennekens, D. Keith Grossman, Daniel Moore, Brian K. Roberts, Gail Wilensky, Kevin Xie, Aditya Puri, Henry A. McKinnell, Jr., Ajay Bansal, Chris A. Raanes, Shahriar Matin, David Bonita, Brian Knaley, and Theodore T. Wang (collectively, with nominal defendant ViewRay, the “Defendants,” and together with Plaintiff, “the Parties”), captioned *Gile v. Drake et al.*, Case No. 1:20-cv-01615 (N. D. Ohio) (the “Derivative Action”);

WHEREAS, on September 13, 2019, a class action alleging violations of the federal securities laws against ViewRay and certain of its officers was filed and is pending in this Court, captioned *Corwin v. ViewRay et al.*, Case No. 1:19-cv-02115 (N.D. Ohio) (the “Securities Class Action”);

WHEREAS, on September 16, 2020, the defendants in the Securities Class Action moved to dismiss the operative complaint in that action (the “Second Amended Complaint”), and on October 30, 2020, briefing on the motion to dismiss the Second Amended Complaint was complete;

WHEREAS, a decision on the motion to dismiss the Second Amended Complaint in the Securities Class Action has not yet been issued;

WHEREAS, on September 2, 2020, November 25, 2020, and February 24, 2021, the Parties in this Derivative Action entered joint stipulations (the “Stipulations”) and agreed that due to circumstances unique to this Derivative Action, the interests of preserving the Company’s and

the Court's resources, efficient and effective case management, and moving the case expeditiously towards trial would best be served by deferring this matter until the Court enters an order resolving the motion to dismiss the Securities Class Action;

WHEREAS, the Court entered orders on September 4, 2020, December 8, 2020, and February 25, 2021, staying this Derivative Action;

WHEREAS, the stay is due to expire on June 1, 2021;

WHEREAS, the Parties agree to continue to be bound by the terms set forth in the First Stipulation entered on September 2, 2020; and

WHEREFORE, the Parties, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. This Derivative Action shall be deferred for an additional 90 calendar days from the expiration of the current stay on June 1, 2021.

IT IS SO STIPULATED BY.

Respectfully Submitted By:

Dated: May 25, 2021

**MURRAY MURPHY MOUL + BASIL,
LLP**

/s/ Joseph F. Murray

Joseph F. Murray (OH 0063373)

1114 Dublin Road

Columbus, OH 43215

Telephone: (614) 488-0400

Facsimile: (614) 488-0401

Murray@mmmb.com

Liaison Counsel for Plaintiff

Michael I. Fistel, Jr

JOHNSON FISTEL, LLP

40 Powder Springs Street

Marietta, GA 30064

Telephone: (470) 632-6000

Facsimile: (770) 200-3101

MichaelF@johnsonfistel.com

Lead Counsel for Plaintiff

Dated: May 25, 2021

GIBSON, DUNN & CRUTCHER LLP

/s/ Monica K. Loseman

Monica K. Loseman (CO 34119)

Allison K. Kostecka (CO 42313)

1801 California Street, Suite 4200

Denver, CO 80202

Telephone: (303) 298-5700

Facsimile: (303) 313.2834

mloseman@gibsondunn.com

akostecka@gibsondunn.com

Michael D. Meuti (OH 0087233)

**BENESCH, FRIEDLANDER, COPLAN
& ARONOFF LLP**

200 Public Square, Suite 2300

Cleveland, OH 44114-2378

Telephone: (216) 363-6246

Facsimile: (216) 363-4588

mmeuti@beneschlaw.com

Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2021, I cause the forgoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Allison K. Kostecka
Allison K. Kostecka